

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re M.M., a Person Coming Under the  
Juvenile Court Law.

B236073  
(Los Angeles County  
Super. Ct. No. CK62816)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

R.M.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of the County of Los Angeles,  
Jacqueline H. Lewis, Juvenile Court Referee. Affirmed.

Amy Z. Tobin, under appointment by the Court of Appeal, for Defendant and  
Appellant.

John F. Krattli, Acting County Counsel, James M. Owens, Assistant County  
Counsel, and William D. Thetford, Principal Deputy County Counsel, for Plaintiff and  
Respondent.

## INTRODUCTION

R.M. (father) appeals from the juvenile court's disposition order removing M.M. from his care pursuant to Welfare and Institutions Code section 361.<sup>1</sup> Father contends that substantial evidence does not support the order. We affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

On March 12, 2011, the Los Angeles County Department of Children and Family Services (Department) received a referral alleging emotional abuse and general neglect of M.M., then under one year old, by his mother.<sup>2</sup> According to the Department's March 16, 2011, detention report, the referral stated that M.M., mother and father had been admitted to the LA Union Rescue Mission the previous week. The mission's case manager advised a children social worker (CSW) for the Department that on March 12, 2011, mother had a loud argument with father during which mother used profane language and threatened to strike father, and told mission residents to "stop staring at me or I will kill you." During the incident, M.M. was in a stroller next to mother. Mother had been staying at the mission since 2005, and during that time she exhibited instances of loud and disruptive behavior and threatened the mission's staff and residents. The Department placed M.M. in a foster home.

The Department filed a petition under section 300, subdivision (b). The petition alleged that mother had mental and emotional problems and a history of illicit drug use, and father knew of mother's mental and emotional problems but failed to protect M.M., allowing mother to have unlimited access to M.M., thereby endangering M.M. and placing him at risk of harm.

The Department's March 16, 2011, detention report provides that mother said father "lives a transient live stile [*sic*] staying in a shelter or unknown locations . . ."

---

<sup>1</sup> All statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

<sup>2</sup> Mother is not a party to this appeal.

Father attended the March 16, 2011, detention hearing, and when the juvenile court inquired about father's permanent mailing address, father's attorney responded by stating that father would be using the address of father's attorney. The juvenile court found father to be M.M.'s presumed father and gave the Department discretion to release M.M. to father upon father having a stable place to live. The juvenile court ordered the Department to provide father with family reunification services comprised of parenting and individual counseling.

According to the Department's May 10, 2011, jurisdiction/disposition, father stated that at the time mother became pregnant with M.M., father had been together with mother for about one and one-half years. Father said mother "can be weird, really weird." Father was aware that mother had been diagnosed with some mental or emotional illness and prescribed medication. Father stated that mother thought people, including people in the military, were watching her, and that everything made her angry.

The jurisdiction/disposition provides that M.M.'s paternal aunt said that father, mother, and M.M. lived with her for about two or three months. On two occasions, mother went outside at 2:00 or 3:00 in the morning and screamed, and the paternal aunt could not calm her down. Father would ignore mother.

At the April 11, 2011, jurisdictional hearing, father's counsel stated that father requested he advise the juvenile court that father wished to relocate to a new shelter and have M.M. released to his care. Father preferred his current shelter but was "aware that he needs to separate himself from . . . mother."

On May 9, 2011, a clinical psychologist filed with the juvenile court a psychological evaluation of mother performed pursuant to Evidence Code section 730, concluding, "The present evaluation of the mother . . . suggested that her ability to parent is greatly limited as a result of an underlying mental health disorder. Though the tests administered to her were invalidated by defensiveness, her rather bizarre behavior and clinical presentation during the instant clinical interview, in addition to similar behavior she has been reported to display in prior interviews, strongly suggests the possibility of a

psychotic disorder and an antisocial history that includes a conviction for prostitution and a self-reported work history of working in strip clubs.”

On May 16, 2011, the Department filed an “information to court” report providing that father stated he had been undergoing evaluations by county doctors and they declared him “unable to work” due to a “mental health disorder.” Father stated, “I have not been able to work because I know I have depression, but I do not have to take any medication for it. I am just depressed.”

At the May 16, 2011, adjudication hearing, father pled no contest to the petition, and the juvenile court sustained the petition as to father and continued the adjudication hearing as to mother. According to the Department’s May 16, 2011, information to court report, father was not working but identified a source of income that was unconfirmed by the Department. Father expressed a great deal of love and concern for M.M. and a desire to be reunified with him, and said he was supportive of mother. It is reported that during their visits, father interacted with M.M. in a loving and affectionate manner, took appropriate care of his needs, and was attentive to him. At the June 10, 2011, adjudication hearing, the juvenile court sustained the petition.

At the July 8, 2011, disposition hearing, the juvenile court stated that it understood father’s counsel would be providing a change of mailing address and pursuant to father’s request, issued an order that the address will be deemed confidential. The juvenile court continued the disposition hearing. On July 8, 2011, father filed a notification of mailing address providing a street address in West Hollywood, California, listing a street number of “8737.” The Department filed an information to court report providing that on July 12, 2011, a CSW made an unannounced home call to an address that she believed was father’s residence and was advised by the apartment manager that father did not reside there. The CSW went to an address with the street number “8736,” an address different than provided by father in his notification of mailing address—which was “8737.”

At the July 18, 2011, scheduled continued disposition hearing, the juvenile court continued the hearing until August 1, 2011. According to the Department’s August 1, 2011, information to court report, on July 20, 2011, father stated to a CSW that he was

upset the Department had used the incorrect address to visit on July 12, 2011. Father said, “I am just trying to use that as a mailing address. [Mother] doesn’t have any type of knowledge of that address. It just gave me up because my confidentiality was broken.” Father provided the CSW with another street number for the address, requested that it be kept confidential, and explained that the residence belonged to a friend for whom he performed odd jobs. When the CWS asked father about his relationship with mother, father stated that because mother uses his phone does not mean they are together, and after August 1, 2011, he was going to separate from mother permanently. On August 1, 2011, the juvenile court continued the disposition hearing to August 12, 2011.

On August 12, 2011, father filed another notification of mailing address, listing the same address father provided in his July 8, 2011, notification of mailing address. At the August 12, 2011, continued disposition hearing, father’s counsel said father was requesting that M.M. be released to him. Father’s counsel argued, “Since our first contested disposition until today there has been a change of circumstances. [Father] now has a residence with an address he wishes to be confidential. . . . He wishes that the Department recognize that he has an apartment, a location ready for them to assess for release. [¶] . . . [¶] Additionally, [father] . . . understands that mother may have mental health issues. He’s able to protect [M.M.]”

The juvenile court declared M.M. a dependant of the juvenile court pursuant to section 300, subdivision (b), and found by clear and convincing evidence, pursuant to section 361, subdivision (c), that there is a substantial danger to M.M’s physical health, safety, protection, and physical and emotional well being if he were returned to the care of father and mother. The juvenile court found there are no reasonable means by which to protect M.M. without removing him from his parents’ physical custody, and that reasonable efforts were made to prevent and eliminate the need for removal. The juvenile court ordered M.M removed from the care of mother and father and stated, in regards to father, “frankly, I don’t know what’s going on. We’ve tried—he was in a homeless shelter when we first started. He has given us one address and said, no, that address is only a mailing address, and then gives us another address. He’s coming in

today saying, yes, I'm going to separate from the mother. Yes, I'm going to get another address. I would note that we are almost just short of six months into this case, and he has still been unable to provide verification that he and mother are separated and that he has a stable and appropriate place to live." The juvenile court ordered the Department provide reunification services for father consisting of individual counseling to address all of the case issues including codependence, stating, "I would note that there is clearly a long history of drug use here by the mother. The court finds that it's very difficult to believe that father knew nothing about that, and, clearly, much of mother's mental health issues were aimed at father, and yet he did nothing to protect [M.M.] during that period of time."

## **DISCUSSION**

Father contends that substantial evidence does not support the disposition order removing M.M. from his care. We disagree.

### **A. Applicable Law and Standard of Review**

"On appeal, the 'substantial evidence' test is the appropriate standard of review for both the jurisdictional and dispositional findings. (*In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1654 [54 Cal.Rptr.2d 722]; *In re P.A.* (2006) 144 Cal.App.4th 1339, 1344 [51 Cal.Rptr.3d 448].) The term 'substantial evidence' means such relevant evidence as a reasonable mind would accept as adequate to support a conclusion; it is evidence which is reasonable in nature, credible, and of solid value. (See *In re Jerry M.* (1997) 59 Cal.App.4th 289, 298 [69 Cal.Rptr.2d 148].)" (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1433.) "In making this determination, all conflicts [in the evidence and in reasonable inferences from the evidence] are to be resolved in favor of the prevailing party, and issues of fact and credibility are questions for the trier of fact. [Citation.] In dependency proceedings, a trial court's determination will not be disturbed unless it exceeds the bounds of reason. [Citation.]" (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 564 [135 Cal.Rptr.2d 72].)" (*In re Savannah M.* (2005) 131 Cal.App.4th 1387,

1393.) “When an appellate court reviews a sufficiency of the evidence challenge, we may look only at whether there is any evidence, contradicted or uncontradicted, which would support the trier of fact’s conclusion. We must resolve all conflicts in favor of the court’s determination, and indulge all legitimate inferences to uphold the court’s order. Additionally, we may not substitute our deductions for those of the trier of fact. (*In re Katrina C.* (1988) 201 Cal.App.3d 540, 547 [247 Cal.Rptr. 784]; *In re Cheryl H.* (1984) 153 Cal.App.3d 1098, 1132 [200 Cal.Rptr. 789].)” (*In re John V.* (1992) 5 Cal.App.4th 1201,1212.)

## **B. Analysis**

As relevant here, section 361, subdivision (c) prohibits the juvenile court from removing a child from his or her parents’ custody “unless the juvenile court finds clear and convincing evidence” that “(1) There is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor’s physical health can be protected without removing the minor from the minor’s parent’s . . . physical custody.” (§ 361, subd. (c); see also California Rules of Court, rule 5.695(d).) “A removal order is proper if it is based on proof of parental inability to provide proper care for the minor and proof of a potential detriment to the minor if he or she remains with the parent. [Citation.] The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child. [Citations.]” (*In re Diamond H.* (2000) 82 Cal.App.4th 1127, 1136.)

There is substantial evidence that there would be a “substantial danger” to M.M.’s well-being if he were returned to father’s care. There is evidence that mother has a psychological disorder. There is evidence that mother had numerous instances of loud and disruptive behavior towards father and others, and has threatened to strike father; mother told mission residents to “stop staring at me or I will kill you;” mother thought people in the military were watching her, and she would scream outside at 2:00 or 3:00 in

the morning. In father's words, mother "can be weird, really weird." Father knew that mother had been diagnosed with a mental or emotional illness and prescribed medication. A clinical psychologist performed a psychological evaluation of mother and concluded that the results "strongly suggests the possibility of a psychotic disorder and an antisocial history . . . ."

It is reasonable to infer based on evidence in the record that father and mother were still together at the time of the disposition hearing, and, therefore, mother would have access to M.M. When M.M. was initially detained in March 2011, father was residing with mother at the mission, and father stated that he was supportive of mother. In April 2011, father and mother were still living together, as evidenced by statement of father's counsel that father was "aware he needed to" separate from mother. In July 2011, father filed a notification of mailing address, but he explained that he was "just trying to use that as a mailing address," and the residence belonged to his friend. Father said he was not planning on separating from mother until after August 1, 2011, which at that time was the date scheduled for the disposition hearing. It is reasonable to infer that at the time of the August 12, 2011, continued disposition hearing, father and mother were not separated.

In addition, there is evidence that father did not have a stable and appropriate place to live. In March 2011, father was residing at the mission, and at that time mother said father lives a transient lifestyle, staying in shelters and other unknown locations. Also, the notification of mailing address father filed with the juvenile court in July 2011, was "just . . . a mailing address." The juvenile court could reasonably infer that father did not have a stable and appropriate residence.

Father contends that the CSW's unannounced home call to an address which she incorrectly understood was father's residence, and the Department's report to the juvenile court that the CSW was advised by the apartment manager that father did not reside there, "created a mistaken belief by the court as to where the father was living." Father, however, does not provide any evidence that the juvenile court in fact had such a mistaken belief based on the Department's report. And, even if the juvenile court had



such a mistaken belief, as stated above, the juvenile court could reasonably infer based upon the evidence that father did not have an appropriate residence to care for M.M.

Father relies on *In re P.C.* (2008) 165 Cal.App.4th 98 and *In re G.S.R.* (2008) 159 Cal.App.4th 1202 for the proposition that father's lack of housing because of poverty is an inadequate reason for the disposition order removing M.M. from his care. These cases are inapposite. They hold that homelessness because of poverty alone is insufficient for an unfitness finding terminating parental rights, not that homelessness because of poverty is an inadequate reason for a disposition order removing a child from a parent's care. Here, this is a dispositional hearing, not a termination of parental rights. In addition, father's homelessness was not the sole basis for the order. As stated above, there was substantial evidence that there would be a substantial danger to M.M.'s well being if he were returned to the care of father because there is a reasonable inference that father and mother were not separated.

There may be facts and inferences that support the father's position. But we are required to consider the evidence in the light most favorable to respondent, and we consider only whether there is substantial evidence supporting the finding. As there is substantial evidence to support the juvenile court's conclusion, we affirm the dispositional order.

#### **DISPOSITION**

The juvenile court's order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

MOSK, J.

We concur:

TURNER, P. J.

KRIEGLER, J.